

**Town of La Pointe Zoning  
Town Plan Commission Special Monthly Meeting Minutes  
January 5, 2011**

**Town Plan Commission (TPC) Members Present:** Ted Pallas, Chair, Charles Brummer, Vice-Chair, Larry Whalen (leaves at 6:00), Carey Baxter, Greg Thury, Ron Madich, Suellen Soucek (leaves at 6:05) (7).

**Town Plan Commission Members Absent:** none.

**Public Present:** Paul Brummer, Michael Brenna, Greg Nelson (3).

**Town Staff Members Present:** Jennifer Croonborg-Murphy, ZA, Margaretta Kusch, ZCA (2).

**I. Call to Order/Roll Call**

Chair Pallas called the meeting to order at 4:30 PM at the Town Hall. Roll call reflected members present or absent as recorded above.

**II. Public Comment**

**III. Approval of Previous Meeting Minutes**

**a. Town Plan Commission Regular Monthly Meeting, November 16, 2010**

- On page 4, item VII.d, change “*Chair Pallas moves direct*” to “*Chair Pallas moves to direct.*”

G. Thury moves to approve as amended the Town Plan Commission Regular Monthly Meeting minutes of November 16, 2010. S. Soucek seconds. All in favor, 6 aye, 1 abstain (C. Baxter). Motion Carries.

**b. Town Plan Commission Public Hearing, December 1, 2010**

- On page 3, change “Bill Bussey” to “William Bussey.”
- On page 3, remove bullet point referring to Burke Henry in list of letters from the public that were read aloud by Town Plan Commission members. Replace with the following text on page 4:
  - “Burke Henry made the following points about various Ordinance sections:
    - The new Ordinance doesn’t appear to meet the goals of the Comprehensive Plan.
    - The permitted R-3 multi-family housing density is significantly reduced. He demands that this mistake be corrected.
    - Presently approved Conditional Uses are neither listed nor defined as Conditional Uses as for example, the Madeline Island School of the Arts or the Madeline Island Music Camp.
    - Grandfathered, non-conforming Uses aren’t defined as permitted Conditional Uses, for example, Brittany Cottages and businesses along Middle Road.
    - Section 9.2.E appears to make his S-1 home and property worthless (the “50% rule” which would only allow rebuilding to 50% of the present value in the event of a fire or other disaster). He demands that this should be removed.
    - The title of Section 9.3 (nonconforming structures to shoreline setbacks), but the first sentence says that the section doesn’t apply to structures nonconforming to shoreline setback. This should be looked at.
    - 16.3 uses aren’t defined e.g. restaurants, veterinary care facility, but sexually oriented terms are. Is there a priority here?”
- On page 3, add “Tom Gavin, dated December 1 (read by Tom Gavin)” to list of members of the public reading aloud letters they have submitted.

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- On page 3, delete “Tom Gavin, dated November 22,” “Pete Rogers, dated November 24, 29” and “Jim Rogers” dated November 23” from list of emails submitted by public, as these emails didn’t pertain to the Public Hearing.
- On page 3, add “29” to list of dates of Chuck Irvine’s emails in list of emails submitted by public.
- On page 3, delete “28” from list of dates of Ted Priem’s emails from list of emails submitted by public, as this email didn’t pertain to the Public Hearing.
- On page 4, under 6<sup>th</sup> bullet point of Burke Henry’s statements, change “*structures*” to “*structure*.”

G. Thury moves to approve as amended the Town Plan Commission Public Hearing 2<sup>nd</sup> draft minutes of December 1, 2010. C. Baxter seconds. All in favor, 7 aye. Motion Carries.

**c. Town Plan Commission Public Hearing, December 8, 2010**

G. Thury moves to approve as submitted the Town Plan Commission Public Hearing 2<sup>nd</sup> draft minutes of December 8, 2010. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

**d. Town Plan Commission Regular Monthly Meeting, December 15, 2010**

- On page 1, public comment, change “*Chair Pallas states that they will definitely on the next agenda*” to read, “*Chair Pallas states that they will definitely be on the next agenda.*”
- On page 4, item VII, second bullet point, change “*...owns two lots, one abutting South Shore Road, the other behind that one off the road. They were created back when this area was zoned s-3; it is now...*” to read “*...owns two lots abutting South Shore Road. They were created back when this area was zoned s-3; one is now...*”
- On page 4, item IX, add “*and Chair Pallas agreed*” to the end of P. Brummer’s comment.

G. Thury moves to approve as amended the Town Plan Commission Regular Monthly Meeting minutes of December 15, 2010. L. Whalen seconds. All in favor, 6 aye, 1 abstain (S. Soucek). Motion Carries.

**VI. Zoning Administrator’s Report**

On file.

G. Thury moves to amend agenda to put item V.c up to before item V.a. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

**V. Consideration and/or Action of Permit Applications**

**a. Woods, Thomas and Marcy RE: after-the-fact permit for fireplace and wall @ 908 Nebraska Row LP# 014-00408-0100**

This permit was denied in 2010 by the Town Plan Commission and the subsequent appeal to the BOA was also denied by that board in 2010. The BOA denied the appeal with the following motion on March 11, 2010: “*W. Tibble moves that the Board deny this appeal on the grounds that the Town Plan Commission followed the guidelines and correctly interpreted the Ordinance, but remand back to the Town Plan Commission for review with a new application explaining the new information that has come to light in these deliberations. W. Anderson seconds. All in favor, 3 aye, 1 nay (T. Nelson), 1 abstain (P. Brummer). Motion Carries.*”

The “new information referred to in the motion was that the Woods’ contractor stated that when the fireplace was put in, some of the overhanging eaves were cut back for aesthetic reasons. Because of this, the fireplace is within the existing building footprint.

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J. Croonborg-Murphy states that the house and lot were created before zoning and doesn't meet setbacks. It's an inland nonconforming structure. The proposed construction includes a new knee wall with a door.

C. Brummer states that he will be abstaining from voting due to his business transactions with the Woods, but that the application seems to consider this new knee wall an elaborate fence, and it is not. It's a wall on a deck that doesn't meet setbacks.

Chair Pallas states that the deck has to be removed to where it meets setbacks. He doesn't agree with the assumption that as long as the fireplace is within the original building footprint, it isn't an addition, but states that additions like these are the same as an addition to a house. Also, he states that the steps off the deck are encroaching into the sideyard and need to be removed.

The Zoning Administrator states that sideyards need to be open to the sky, and the steps are in the sideyard.

R. Madich states that tearing down the wall and cutting back the deck wouldn't be a hardship.

There is general agreement that removing the fireplace would be a hardship, however. G. Thury asks if there is room for compromise regarding the fireplace.

The Zoning Administrator responds that compromise would have to come from the Board of Appeals. The Town Plan Commission can't pick and choose what rules to follow. (L. Whalen leaves at 6:00 pm.)

Chair Pallas moves to deny the after-the-fact permit for a fireplace and wall for Thomas and Marcy Woods at 908 Nebraska Row, for the obvious reasons. "Number one, I believe that the wall with the door encroaches on the sideyard setback, nothing was removed, it was built later. The steps that went up on the Faulkner side encroach and should never have been installed. I also believe that there was a possibility that that deck was added onto, but I can't prove it. The fireplace, a permit never would or should have been issued for the fireplace, because the fireplace is a structure. It's an addition to a nonconforming structure and it doesn't meet setbacks" [*Chair Pallas stated this as part of his motion. – Margaretta Kusch, ZCA*]. S. Soucek seconds. All in favor, 5 aye, 1 abstain (C. Brummer). Motion Carries.

**b. Woods, Thomas and Marcy RE: application for wall atop existing deck @ 908 Nebraska Row LP# 014-00408-0100**

(S. Soucek leaves at 6:05 pm)

Chair Pallas moves that the new permit for Thomas and Marcy Woods, for the wall atop the existing deck at 908 Nebraska Row-- let the record show --on the Faulkner side, be denied because the nonconforming deck doesn't meet setbacks. However, resurfacing doesn't require a permit because it's regular maintenance and repair. G. Thury seconds. All in favor, 4 aye, 1 abstain (C. Brummer). Motion Carries.

**c. Greg Nelson/Cheryl Allen RE: Division of parcel #014-00195-0300 @ 631 Middle Rd. from one parcel to three parcels**

This is a revision of a prior division proposal that the Town Plan Commission denied in 2010. A variance was applied for to the Board of Appeals, which was also denied with the following motion on March 11, 2010: "*P. Brummer moves to deny the request for a variance. T. Nelson seconds. All in favor, 5 aye. Motion Carries.*"

This new revision divides the property into three, with lots 1 and 2 abutting Middle Road, and lot 3 to the south of 1 and 2. A proposed easement would access the new lot 3. There is currently a semi-circular drive that enters Middle Road on what will be lot 1 and exits on what will be lot 2.

The prior application of 2010 was denied by the Town Plan Commission because the division would've created lots with not enough frontage feet on Middle Road. The variance appeal of 2010 was denied by the Board of Appeals because the Board felt that hardship on the part of the owner wasn't shown.

Greg Nelson states that he is here to address any questions, and that he didn't attend any of the Board of Appeals meetings regarding the variance because he's the Town Board chair and would've been a conflict of interest.

J. Croonborg-Murphy states that there are some minor corrections to be made on the CSM: mathematical errors, figures for setbacks, and changing the name of the second "Lot 1" to "Lot 3." Besides these errors which can be fixed simply, the question she has for the Town Plan Commission is whether the lot can be divided this way.

The Town Plan Commission discuss the new application, and come to a consensus that the circular drive should be closed at one end so that it cannot be considered the primary access for both lots facing Middle Road. If this is done, the easement running between the two new lots abutting Middle Road will create new fronts that have the required frontage, as the primary access to the lots will be off that easement road.

Chair Pallas states that if this change is made to the CSM, all the changes required by the Zoning Administrator are made, and any and all changes required by the County are made, the permit should be approved.

G. Thury moves to amend agenda to put item VII.b to before item V.a. C. Brummer seconds. All in favor, 7 aye. Motion Carries.

**d. Noha/Town of La Pointe RE: CSM @ 249 & 279 Library St., parcels #014-00439-0100 and #014-00439-0300**

The Zoning Administrator states that this is all in order except for one typo in the metes and bounds description, where a "40" should be a "20." It also still needs to be submitted for County review.

G. Thury moves to recommend approval of the Noha/Town of La Pointe CSM at 249 & 279 Library St., parcels #014-00439-0100 and #014-00439-0300, pending the change to the metes and bounds and County approval. R. Madich seconds. All in favor, 5 aye. Motion Carries.

**VI. Old Business**

**Zoning Ordinance Revision Project**

- a. Set tentative schedule for possible changes to draft Zoning Ordinance amendments**  
See item IX below.

**VII. New Business**

- **Osterbauer, Morris RE: preliminary CSM @ South Shore Dr LP# 014-00292-0500 and South 014-00292-0400**

Mr. Osterbauer owns two lots abutting South Shore Road. They were created back when this area was zoned S-3; one is now partially S-1 and partially W-1. He would like to re-divide the lots in order to create conformity so that one can be sold. Three potential ways of dividing the property have been submitted.

The Town Plan Commission agree on one of the proposed divisions. Mr. Osterbauer will be informed so as to begin preparing a preliminary CSM.

- **Brenna, Michael & Jane Aleckson RE: rental Questions at James & Elizabeth Ryder properties, 951 Snowplace Rd.**

Michael Brenna states that he and his wife Jane recently moved to the island with the intent of buying the Ryders' property. Due to unforeseen circumstances with the previous owners' bank, they currently have to rent it, but intend on buying the property in July. In the meantime, they would like to rent out the extra rooms in the main house as well as the cabin. They would like to request a license/permit to rent, to find out what needs to be done in order to get any permits so that they can start advertising.

The Zoning Administrator asks how many rooms they want to rent out. Mr. Brenna responds that there are two extra rooms they want to rent in the main house; they were thinking of short-term rentals, like a Bed & Breakfast without the breakfast part.

C. Brummer states that any activity would have to abide by the Zoning Ordinance requirements for W-1, the district the house is in. Neither inns nor B&Bs are permitted or conditional uses in W-1. In addition, there is the problem of issuing a rental permit to a sublesser, as the Ryders currently own the property.

The cabin, however, could be rented. The Zoning Administrator states that she would issue the permit for that as soon as an application is submitted. Chair Pallas points out that the Zoning Ordinance is still being revised, and situations like this one will be considered by the Town Plan Commission. C. Baxter points out the fact that, as another option, the Brennans could live in the cabin and rent out the main house.

G. Thury moves to resume agenda as posted. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

#### **VIII. Future Agenda Items**

#### **IX. Schedule Future Meetings**

- Town Plan Commission Special Meeting (to discuss Zoning Ordinance Revision Project Public Hearing feedback) to be held Thursday, January 13, 2011, at 4:30 pm
- Town Plan Commission Regular Monthly Meeting to be held Wednesday, January 19, 2011 at 4:30 pm

#### **X. Adjournment**

G. Thury moves to adjourn. C. Baxter seconds. All in favor, 6 aye. Motion Carries. Meeting ends at 6:15 pm.

**Town Plan Commission minutes are respectfully submitted by Margaretta Kusch, ZCA on Sunday, January 9, 2011.**

**Town Plan Commission minutes are approved as amended on Wednesday, January 19, 2011.**

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